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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,956	02/01/2000	Jeffrey Jovan Philyaw	PHLY-24,815	4177

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EXAMINER
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VAUGHN JR, WILLIAM C

ART UNIT	PAPER NUMBER
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2143

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DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/494,956

Applicant(s)

PHILYAW ET AL.

Examiner

William C. Vaughn, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

WCV

### DETAILED ACTION

1. This Action is in response to the Amendment and Reply received on 08 July 2003.

#### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07 July 2003 has been entered.

3. The application has been examined. **Claims 22-35** are pending. The objections and rejections cited are as stated below:

#### *Specification*

4. The disclosure is objected to because of the following informalities: The specification references related applications, 09/151,530 and 09/151,471. The current state of these applications, reflecting the status of present pendency, (i.e., abandonment or patent maturity), including associated patent numbers, should be amended into the specification.

Appropriate correction is required.

#### *Claim Objections*

5. **Claims 22 and 29** are objected to because of the following informalities: page 2, line 13, and recites "the plurality of the first locations" it is suggested that the limitation be changed to read --the plurality of first locations--; page 4, line 16, recites "the one or more of the first locations" it is suggested that the limitation be changed to read --the plurality of first locations--.
- Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 23-28 and 30-35** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 23 and 30** recite the limitation "the first location". There is insufficient antecedent basis for this limitation in the claim. It is unclear as to which of the first locations the Applicant is referring to. The Examiner will interpret this limitation to mean, "the plurality of first locations".

**Claims 24 and 31** recite the limitation "decoded version" and "the unique encoded audio". There is insufficient antecedent basis for this limitation in the claim. The Examiner will interpret this limitation to mean "a decoded version". The Examiner will also interpret "the unique encoded audio" to mean "encoded information".

**Claims 26 and 33** recite the limitation "the first location". There is insufficient antecedent basis for this limitation in the claim. It is unclear as to which of the first locations the Applicant is referring to. The Examiner will interpret this limitation to mean, "the plurality of first locations".

**Claims 28 and 35** recite the limitation "the audio portion". There is insufficient antecedent basis for this limitation in the claim. The Examiner will interpret this limitation to mean "an audio portion".

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 22-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudetz et al. (Hudetz), U.S. Patent No. 5,978,773 in view of Watanabe, U.S. Patent No. 6,163,803.

9. Regarding **claim 22**, Hudetz discloses the invention substantially as claimed. Hudetz discloses *a method for allowing an advertiser to conduct commerce over a global communication network by controlling any of a plurality of first locations on the global communication network (internet, item 20) to access a specific and determinable second location on the global communication network associated with the advertiser* (Hudetz teaches a system that allows for a better way for consumers and others to access resources on remote computers, particularly Web sites), [see Hudetz, Col. 3, lines 16-23 and Col. 9, lines 42-52] *comprising the steps of: defining a signature for the specific and determinable second location on the global communication network* (Hudetz teaches that a UPC symbol and that within a database there records that contain four identification fields that holds an URL suitable for locating resources on the internet), [see Hudetz, Col. 5, lines 55-67 and Col. 6, lines 8-27 and Col. 7, lines 5-57] *which signatures is permanently associated with the specific and determinable second location and with the advertiser* (Hudetz further teaches that an association of the Internet URL and narrative description is based on a criteria that identifies a web resource sponsored by a manufacturer of the selected product identified by the fields), [see Hudetz, Col. 7, lines 17-42]; *storing a*

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*designation corresponding to the signature in a database on the global communication network* (Hudetz again teaches within the database are records which are accessible utilizing DBMS software and that within each record of the database there is an association between an UPC field and an Internet URL and a narrative description), [see Hudetz, Col. 7, lines 5-28] *and accessible from any of the plurality of first locations* [see Hudetz, Col. 9, lines 42-62]; *associating with the designation in the database routing information the global communication network to the specific and determinable second location associated with the advertiser from any of the plurality of the first locations on the global communication network* [see Hudetz, Col. 7, lines 5-28]. However, Hudetz does not explicitly disclose an audio signature.

10. In the field of endeavor, Watanabe discloses (e.g., audio URL signal transmitting apparatus). Watanabe discloses a unique audio signature (Watanabe teaches an audio URL signal), [see Watanabe, Col. 7, lines 53-57].

11. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Watanabe's teachings of an audio URL signal transmitting apparatus with the teachings of Hudetz, for the purpose of making access to a web site easier, by utilizing an audio URL signal transmission [see Watanabe, Col. 19, lines 5-12]. Thus, Hudetz provides motivation to combine by stating the use of an RF data collection scanner to be used within the system [see Hudetz, Col. 12, lines 18-19]. By this rationale **claim 22** is rejected.

12. Regarding **claim 23**, Hudetz-Watanabe further discloses *wherein the database is disposed at an intermediate node on the global communication network remote from the first*

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*location or the specific and determinable second location* [see Hudetz, Col. 7, lines 50-63]. By this rationale **claim 23** is rejected.

13. Regarding **claim 24**, Hudetz-Watanabe further discloses *wherein the unique audio signature has embedded therein encoded information* [see Watanabe, Col. 7, lines 32-67 and Col. 8, lines 1-46 and Col. 9, lines 35-46] *wherein the step of storing the unique audio designation in a database comprises storing the decoded version of the encoded information therein and the step of associating is operable to associate the decoded version of the unique encoded audio with routing information* (Watanabe teaches a decoder for extracting audio), [see Watanabe, Col. 6, lines 44-47]. By this rationale **claim 24** is rejected.

14. Regarding **claim 25**, Hudetz-Watanabe further discloses *wherein, in response to receiving a request from one of the plurality of first locations at the database, which request has associated therewith the decoded version of one of the unique audio designations stored in the database, returning the associated routing information back to the requesting one of the first locations* (Hudetz teaches that browser software generates a request and forwards the request to the service provider, along with the request for information contained at the location corresponding to the address and the service provider and the remote server transmits the data to the user), [see Hudetz, Col. 11, lines 28-40]. By this rationale **claim 25** is rejected.

15. Regarding **claim 26**, Hudetz-Watanabe further discloses *wherein the database is stored at an intermediate node on the global communication network remote from the first location and the specific and determinable location* [see Hudetz, Col. 7, lines 50-63]. By this rationale **claim 26** is rejected.

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16. Regarding **claim 27**, Hudetz-Watanabe further discloses *wherein the step of defining a unique audio signature comprises defining a unique audio signature that comprises an audio signal within the hearing range of a human* [see Watanabe, Col. 19, lines 66-67 and Col. 19, lines 1-2]. By this rationale **claim 27** is rejected.

17. Regarding **claim 28**, Hudetz-Watanabe further discloses *wherein the unique audio designation is compatible with the audio portion of a television broadcast* [see Watanabe, Col. 9, lines 56-59]. By this rationale **claim 28** is rejected.

18. Regarding **claim 29**, the limitations of this claim are substantially the same as claim 1 and thus are rejected for the same rationale in rejecting claim 1. Furthermore, with regards to the limitations *of the advertiser causing the unique audio signature to be reproduced at one or more of the plurality of first locations* [see Hudetz, Col. 7, lines 64-67 and Col. 8, lines 1-9]; *and transferring information between the one or more of the first locations and the specific and determinable second location in response to the step of the advertiser causing the unique audio signature to be reproduced at one or more of the plurality of first locations and in accordance with the routing information stored in the database and associated with the reproduced unique audio signature* [see Hudetz, Col. 7, lines 64-67 and Col. 8, lines 1-9]. By this rationale **claim 29** is rejected.

19. Regarding **claim 30**, Hudetz-Watanabe discloses *wherein the database is disposed at an intermediate node on the global communication network remote from the first location or the specific and determinable second location* [see Hudetz, Col. 7, lines 50-63]. By this rationale **claim 30** is rejected.



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20. Regarding **claim 31**, Hudetz-Watanabe further discloses *wherein the unique audio signature has embedded therein encoded information* [see Watanabe, Col. 7, lines 32-67 and Col. 8, lines 1-46 and Col. 9, lines 35-46] *wherein the step of storing the unique audio designation in a database comprises storing the decoded version of the encoded information therein and the step of associating is operable to associate the decoded version of the unique encoded audio with routing information* (Watanabe teaches decoder for extracting audio), [see Watanabe, Col. 6, lines 44-47]. By this rationale **claim 31** is rejected.

21. Regarding **claim 32**, Hudetz-Watanabe further discloses *wherein, in response to receiving a request from one of the plurality of first locations at the database, which request has associated therewith the decoded version of one of the unique audio designations stored in the database, returning the associated routing information back to the requesting one of the first locations* (Hudetz teaches that browser software generates a request and forwards the request to the service provider, along with the request for information contained at the location corresponding to the address and the service provider and the remote server transmits the data to the user), [see Hudetz, Col. 11, lines 28-40]. By this rationale **claim 32** is rejected.

22. Regarding **claim 33**, Hudetz-Watanabe further discloses *wherein the database is stored at an intermediate node on the global communication network remote from the first location and the specific and determinable location* [see Hudetz, Col. 7, lines 50-53]. By this rationale **claim 33** is rejected.

23. Regarding **claim 34**, Hudetz-Watanabe further discloses *wherein the step of defining a unique audio signature comprises defining a unique audio signature that comprises an audio*

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*signal within the hearing range of a human* [see Watanabe, Col. 19, lines 66-67 and Col. 19, lines 1-2]. By this rationale **claim 34** is rejected.

24. Regarding **claim 35**, Hudetz-Watanabe further discloses *wherein the unique audio designation is compatible with the audio portion of a television broadcast* [see Watanabe, Col. 9, lines 56-59]. By this rationale **claim 35** is rejected.

### *Response to Arguments*

25. Applicant's arguments include the failure of previously applied art to expressly disclose providing a database associating a unique audio designation and routing information over the global communication (see Response, page 8 of Paper# 19). It is evident from the detailed mappings found in the above rejection(s) Hudetz-Watanabe in combination taught the disclosed functionality and that the provision for a database associating a unique audio designation and routing information over the global communication, was widely implemented in the networking art. Thus, Applicant's arguments drawn toward distinction of the claimed invention and the prior art teachings on this point are not considered persuasive.

### *Conclusion*

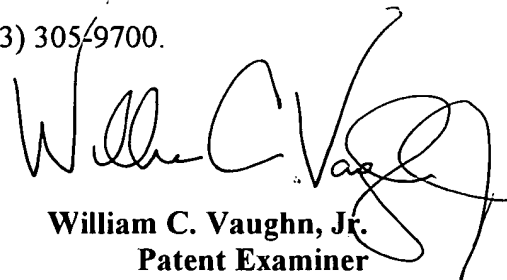
26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-5:00, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9700.

A handwritten signature in black ink, appearing to read 'William C. Vaughn, Jr.', is written over the printed name and title.

**William C. Vaughn, Jr.**  
**Patent Examiner**  
**Art Unit 2143**  
**August 29, 2003**